

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL APPEAL No.1293 of 2011

JUDGMENT: (Per Hon'ble Sri Justice C.Praveen Kumar)

1. The sole accused in Sessions Case No.404 of 2010 on the file of the Principal Sessions Judge Medak at Sangareddy is the appellant herein. He was tried for the offence punishable under Section 302 IPC for causing the death of one Sajjapuram Sanjeeva Reddy with a knife. By its judgment dated 01.08.2011, the learned Sessions Judge convicted the accused and sentenced him to undergo 'imprisonment for life'.

2. The facts as culled out from the prosecution witnesses are as under:

P.W.1 is the wife of the deceased and the accused is related to her as brother-in-law. P.W.2 is the father-in-law and P.W.3 is the mother of the deceased and mother-in-law of P.W.1. About eight months prior to the date of incident, the accused beat his wife and sent her away. The wife of the accused is the daughter of one Sanga Reddy, who is the elder brother of P.W.1. One Bukka Reddy adopted the wife of the accused. While the wife of the accused was residing at Yelgoi village, in the house of Laxma Reddy, who is the brother of P.W.2, the accused came there and picked up a quarrel with Laxma Reddy and his sons. At that time, a panchayat was held in which, P.Ws.1 and 2 acted as mediators and the accused was asked to go away as he was found fault in beating his wife. On 12.3.2008, the accused came along with some

antisocial elements to the house of Laxma Reddy and attacked him with sticks. In the said incident, Laxma Reddy, Janardhan Reddy and Sudarshan Reddy received bleeding injuries. Sudarshan Reddy was shifted to NIMS Hospital, where he succumbed to the injuries. It is the version of P.W.2 that the accused bore grudge against him as he acted as mediator in the panchayat. While the things stood thus, on 27-8-2008 at about 8.00 p.m., while P.W.1, her son, mother-in-law and P.W.3 along with the deceased were present in the house, the accused came to their house and on the pretext of hosting a party, took the deceased along with him. The evidence of P.Ws.5 and 6 shows that while P.W.6 was plucking grass at the graveyard of his father and P.W.5 plucking grass at the grave of grandmother, P.W.5 received a telephonic call from the accused asking him to join for drinks. When P.W.5 told the accused that he was not having money to purchase of liquor, the accused asked him to join him stating that he brought two quarter bottles of liquor. P.Ws.5 and 6 consumed liquor at the graveyard and thereafter the accused told them that he purchased chicken. All of them went to Bombay Colony where the accused cooked food. Thereafter the accused went out and brought the deceased to his house at 8.00 p.m. At about 8.10 p.m., P.Ws.5 and 6 left the house of the accused.

3. The evidence of P.W.1 further discloses that as the deceased did not return to the house, she went to the house of the accused at 12.00 midnight and noticed cut injuries on the neck of her husband-deceased, who was lying dead. Immediately, she raised cries, which attracted the attention of P.W.10, who is house owner of accused. On hearing the cries of P.W.1, P.W.10 went into the

house of accused and found the deceased lying dead. He also noticed a knife and a granite stone. On the next day, at about 6.00 a.m., P.W.1 proceeded to the police station and lodged a report with P.W.12, who is the Probationary Sub-Inspector of Police, Ramachandrapuram. Ex.P.1 is the report basing on which, a case in Crime No.376 of 2008 came to be registered under Section 302 I.P.C. Ex.P.9 is the F.I.R. copy. Further investigation was taken up by P.W.13-Circle Inspector of Police. After receipt of F.I.R., he along with P.W.12 visited the scene of offence i.e. the house of the accused, situated at S.N. Colony of Bombay Colony. He examined P.Ws.1 to 3 and 10 and thereafter in the presence of panch witnesses, he conducted scene of offence panchanama, seized bloodstained empty back piper whisky bottle, steel tamper, bloodstained small knife, bloodstained gunny bag etc., which are exhibited as M.Os.1 to 6. Thereafter, he prepared a rough sketch of scene of offence under Ex.P.4. He also got the scene of offence photographed through P.W.4. Ex.P.2 is the bunch of photographs. He then conducted inquest over the dead body of the deceased in the presence of mediators, Ex.P.5 is the inquest report. After completing the inquest, he forwarded the body to the Government Hospital, Sangareddy for post-mortem examination. P.W.11-the Assistant Civil Surgeon, Government Hospital, Sangareddy conducted autopsy over the dead body and issued Ex.P.8 the post-mortem certificate, wherein he opined that the cause of death was due to Cardio respiratory arrest due to multiple injuries to vital organs. On 29.10.2008 at 10.30 a.m., the accused himself surrendered before P.W.13, pursuant to which, P.W.13 sent a requisition to the M.R.O. and in the presence of M.R.O., he recorded the confessional statement of the accused under Ex.P.6,

pursuant to which, M.O.7 to 9, bloodstained clothes of the accused were recovered. After completing the investigation, he filed the charge sheet, which was taken on file in P.R.C.No.1 of 2009 on the file of Additional Judicial First Class Magistrate, Sangareddy. After following the procedure laid down under Section 207 of Cr.P.C. and as the offence alleged is triable by the Court of Sessions, the learned Magistrate committed the case to the court of sessions, which came to be numbered as S.C.No.404 of 2010.

4. Basing on the material available, Charge under Section 302 IPC came to be framed, read over and explained to the accused, to which he denied and claimed to be tried.

5. To substantiate their case, the prosecution examined PWs.1 to 14 and got marked Exs.P1 to P10 and M.Os.1 to 9. After the closure of evidence, the accused was examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against him in the evidence of the prosecution witnesses, to which he denied. No oral or documentary evidence was adduced on behalf of the accused, in support of his defence.

6. On appreciation of the entire evidence on record, more particularly, relying upon the evidence of P.Ws.1 to 3, 5,6 and 10, the trial Court convicted and sentenced the accused in the manner referred to above. Challenging the same, the present appeal through the Legal Aid.

7. The learned counsel for the appellant-accused would submit that there are no eyewitnesses to the incident and the entire case rests upon the circumstantial evidence. According to him, circumstances relied upon by the prosecution do not form a chain

of events, pointing out the guilt towards the accused. He further submits that except the circumstance that the deceased was last seen in the company of the accused, there is no other incriminating material or evidence to connect the accused with the commission of offence. According to him, even the said circumstance is doubtful in view of the discrepancies in the evidence of prosecution witnesses.

8. On the other hand, the learned Public Prosecutor would submit that the evidence placed on record by the prosecution is sufficient to come to the conclusion that the accused has committed the offence. The evidence of P.Ws.1 to 3, 5,6 and 10 clearly show that the circumstances relied upon by the prosecution are proved beyond reasonable doubt.

9. The question that arises for consideration in this appeal is whether the accused has committed the offence?

10. It is not in dispute that there is no eyewitness to the incident and the case rests entirely on the circumstantial evidence. The question is whether the circumstances relied upon by the prosecution do form a chain of events so as to connect the accused with the commission of offence.

11. The first circumstance relied upon by the prosecution is the motive for the accused to kill the family member of P.W.2. The said aspect stands proved through the evidence of P.W.2, who acted as a mediator in the dispute between the accused and his wife. At this stage, it is to be pointed out that the accused and P.W.1 are related to each other and because of which, the wife of the accused choose to get resolved the dispute through P.W.2, who

is the father of P.W.1 and father-in-law of accused. The evidence of P.W.2 further discloses that in the panchayat held, the accused was admonished and sent away by P.W.2. Keeping that in mind, the accused is said to have committed the offence.

12. The second circumstance relied upon by the prosecution is the deceased being last seen in the company of the accused. To prove this circumstance, the prosecution pressed into service the evidence of P.Ws.1,5 and 6. P.W.1 in her evidence deposed that on the date of incident at about 8.00 p.m., the accused came to their house, knocked the door and took the accused along with him stating that he is holding a party. The fact that the accused hosted a party in his house gets corroboration from the evidence of P.Ws.5 and 6. As per the evidence of P.Ws.5 and 6, on the date of incident at about 4.00 or 4.30 p.m., the accused gave a call asking them to join him for a drink party. When they expressed that they do not have any means, the accused told that he had already purchased two bottles of DSP liquor. Their evidence further discloses that all of them consumed liquor near a graveyard and thereafter proceeded to the house of accused. On the way, they purchased chicken and went to the house of the accused, where they cooked the chicken. After cooking the food, the accused went to the house of the deceased and brought him to his house. This was at about 8.00 p.m. Therefore, the circumstance that the accused went and brought the deceased to his house by 8.00 p.m. stands established, not only through the evidence of P.Ws.5 and 6 but also through the evidence of P.W.1. At about 8.15 p.m., P.Ws.5 and 6 left the company of the accused and the deceased. Since the deceased did not return back, P.W.1 along with her son

went to the house of the accused and knocked the door. The accused opened the door and on seeing P.W.1, pushed her aside and ran away. On entering the house of accused, P.W.1 noticed the body of the deceased with blood all over the body. From the above, it is clear that when P.W.1 went to the house of the accused, he was there along with the body of the deceased and on seeing P.W.1, he ran away. Though P.W.1 was cross-examined at length on this aspect, nothing useful was elicited to discard her testimony. The only fact, which the accused was able to elicit from P.W.1 was that prior to this incident, there were no prior disputes between the accused and the deceased and that Ex.P.1-report was drafted to her dictation by some other. The same, in our view, does not make the evidence of P.W.1 doubtful or untrustworthy. The evidence on record discloses that on hearing the cries of P.W.1, P.W.10, who is the house owner of accused, rushed to the portion of accused and saw the body of the deceased in a pool of blood. P.W.1 informed him that the deceased was killed by the accused. He entered into the portion of the accused and noticed the deceased with injuries on head. Therefore, the evidence of witnesses referred to above indicate that the accused was present in his house when P.W.1 went there in search of her husband (deceased). There was absolutely, no explanation from the accused as to how the body of the deceased came into his house and how the deceased died. Even in cross-examination, he did not even suggest that someone was responsible for the death of the deceased or that the body of the deceased came to his house without his knowledge. Further it is also to be noticed that after the arrest, the accused made a confession, which led to the recovery of bloodstained clothes.

13. As a last effort, the learned counsel for the appellant-accused contends that the F.I.R. does not contain the signature of P.W.1 and the entire case is concocted and foisted against the appellant. We are not inclined to accept the said contention, since, a perusal of entire F.I.R., which is in Telugu, clearly shows the existence of the signature of P.W.1. Therefore, the argument of the learned counsel for the appellant that the entire case has to collapse cannot be accepted. In this connection, it is also to be noted that P.W.12 in his evidence stated that on 28.10.2008 at about 6.30 a.m. while he was present in the police station, P.W.1 came to the station at 5.30 a.m. and gave a oral statement, which was reduced into writing by P.W.12 and thereafter, he took her signature, which came to be registered as F.I.R.

14. In view of the above, we do not find any ground to interfere with the conviction and sentence imposed by the trial Court.

15. Accordingly, the Criminal Appeal is dismissed confirming the conviction and sentence imposed by the trial Court by judgment dated 01.08.2011 in Sessions Case No.404 of 2010 on the file of the Principal Sessions Judge Medak at Sangareddy.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

JUSTICE N.BALAYOGI

Dated: 28.11.2017

Tsr

